

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARGARET FOREMAN AND
CLEVELAND GRIFFIN,

PLAINTIFFS,

VERDICT SHEET
05-CV-5763 (DRH)

-AGAINST-

PETER BERNAGOZZI, INDIVIDUALLY
AND AS A POLICE OFFICER OF THE
SOUTHAMPTON, NEW YORK POLICE
DEPARTMENT; JOHN KUEZ¹,
INDIVIDUALLY AND AS A POLICE
OFFICER OF THE SOUTHAMPTON, NEW
YORK POLICE DEPARTMENT, AND THE
TOWN OF SOUTHAMPTON, NEW YORK

DEFENDANTS.

-----X

INSTRUCTIONS

THE APPLICABLE LAW AS TO THIS CASE IS FULLY SET FORTH IN THE
CHARGE. THE PURPOSE OF THIS FORM IS SOLELY TO ASSIST YOU IN
REPORTING YOUR VERDICT.

YOUR VERDICT MUST BE UNANIMOUS, THAT IS, EACH OF YOU MUST AGREE
ON THE ANSWER TO EACH QUESTION.

FEDERAL CIVIL RIGHTS (SECTION 1983) CLAIMS

1. HAS PLAINTIFF GRIFFIN ESTABLISHED HIS CLAIM THAT DEFENDANT
BERNAGOZZI VIOLATED HIS FEDERAL CIVIL RIGHTS:

A) BY USING EXCESSIVE FORCE IN ARRESTING HIM?

YES _____

NO X

¹The correct spelling of this defendant's name is "Kuey."

- B) BY DELIBERATELY NOT INTERVENING OR OTHERWISE
TAKING STEPS TO STOP HIS FELLOW OFFICER FROM
STRIKING HIM?

YES _____

NO X

- C) BY DEPRIVING HIM OF PROPERTY WITHOUT SUBSTANTIVE
DUE PROCESS OF LAW?

YES _____

NO X

2. HAS PLAINTIFF GRIFFIN ESTABLISHED HIS CLAIM THAT DEFENDANT
KUEZ VIOLATED HIS FEDERAL CIVIL RIGHTS:

- A) BY USING EXCESSIVE FORCE IN ARRESTING HIM?

YES _____

NO X

- B) BY DELIBERATELY NOT INTERVENING OR OTHERWISE
TAKING STEPS TO STOP HIS FELLOW OFFICER FROM
STRIKING HIM?

YES _____

NO X

3. HAS PLAINTIFF FOREMAN ESTABLISHED HER CLAIM THAT DEFENDANT
BERNAGOZZI VIOLATED HER FEDERAL CIVIL RIGHTS:

- A) BY USING EXCESSIVE FORCE AGAINST HER BY
INTENTIONALLY SPRAYING HER WITH PEPPER SPRAY?

YES _____

NO X

- B) BY INTENTIONALLY DAMAGING HER GARAGE BY AN
IMPROPER USE OF PEPPER SPRAY IN VIOLATION OF HER
SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____

NO X

- C) BY INTENTIONALLY DAMAGING HER LAWN AND FLOWER BEDS
BY DELIBERATELY DRIVING ON HER LAWN IN VIOLATION
OF HER SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____

NO X

4. HAS PLAINTIFF FOREMAN ESTABLISHED HER CLAIM THAT DEFENDANT KUEZ VIOLATED HER FEDERAL CIVIL RIGHTS:

A) BY INTENTIONALLY DAMAGING HER GARAGE BY AN IMPROPER USE OF PEPPER SPRAY IN VIOLATION OF HER SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____

NO X

Proceed to questions 5 through 13 only, and to the extent, you found for one or both of the plaintiffs on one or more of their federal civil rights claims. For example, if plaintiffs established all of their federal claims answer all of the questions below, if they established none of the claims, answer none of the questions.

5. IF YOU ANSWERED QUESTION 1A "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF GRIFFIN'S EXCESSIVE FORCE CLAIM?

YES _____

NO _____

6. IF YOU ANSWERED QUESTION 1B "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF GRIFFIN'S FAILURE TO INTERVENE CLAIM?

YES _____

NO _____

7. IF YOU ANSWERED QUESTION 1C "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF GRIFFIN'S SUBSTANTIVE DUE PROCESS CLAIM?

YES _____

NO _____

8. IF YOU ANSWERED QUESTION 2A "YES", DID DEFENDANT KUEZ ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF GRIFFIN'S EXCESSIVE FORCE CLAIM?

YES _____

NO _____

9. IF YOU ANSWERED QUESTION 2B "YES", DID DEFENDANT KUEZ ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF GRIFFIN'S FAILURE TO INTERVENE CLAIM?

YES _____

NO _____

10. IF YOU ANSWERED QUESTION 3A "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON

PLAINTIFF FOREMAN'S EXCESSIVE FORCE CLAIM?

YES _____ NO _____

11. IF YOU ANSWERED QUESTION 3B "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF FOREMAN'S CLAIM OF IMPROPER USE OF PEPPER SPRAY IN HER GARAGE IN VIOLATION OF HER SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____ NO _____

12. IF YOU ANSWERED QUESTION 3C "YES", DID DEFENDANT BERNAGOZZI ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF FOREMAN'S CLAIM OF DELIBERATELY DRIVING ON HER LAWN IN VIOLATION OF HER SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____ NO _____

13. IF YOU ANSWERED QUESTION 4A "YES", DID DEFENDANT KUEZ ESTABLISH THAT HE IS ENTITLED TO QUALIFIED IMMUNITY ON PLAINTIFF FOREMAN'S CLAIM OF IMPROPER USE OF PEPPER SPRAY IN HER GARAGE IN VIOLATION OF HER SUBSTANTIVE DUE PROCESS RIGHTS?

YES _____ NO _____

STATE LAW CLAIM: NEGLIGENCE

14. A. HAS PLAINTIFF FOREMAN ESTABLISHED HER STATE LAW CLAIM FOR NEGLIGENCE AGAINST THE TOWN OF SOUTHAMPTON FOR SPRAYING PEPPER SPRAY IN AN ENCLOSED AREA?

YES X NO _____

- B. IF YOU ANSWERED 14A "YES", DID DEFENDANT TOWN OF SOUTHAMPTON ESTABLISH THAT PLAINTIFF FOREMAN WAS ALSO NEGLIGENT AND HER NEGLIGENCE CONTRIBUTED TO CAUSING HER INJURY?

YES X NO _____

- C. IF YOU ANSWERED 14B "YES", WHAT PERCENTAGE OF FAULT WAS

ATTRIBUTABLE TO PLAINTIFF FOREMAN?

50 PERCENT

COMPENSATORY DAMAGES

15. PLEASE STATE THE TOTAL AMOUNT OF COMPENSATORY DAMAGES, IF ANY, YOU ARE AWARDING PLAINTIFF GRIFFIN UNDER THE FEDERAL CLAIMS YOU HAVE FOUND HE ESTABLISHED:

\$ 0-

16. PLEASE STATE THE TOTAL AMOUNT OF COMPENSATORY DAMAGES, IF ANY, YOU ARE AWARDING PLAINTIFF FOREMAN UNDER THE FEDERAL AND/OR STATE CLAIMS WHICH YOU HAVE FOUND SHE ESTABLISHED:

\$ 7000.00

NOMINAL DAMAGES

(ONLY APPLICABLE TO PLAINTIFFS' FEDERAL CIVIL RIGHTS CLAIMS)

17. IF YOU HAVE GIVEN NOMINAL DAMAGES TO PLAINTIFF GRIFFIN ON ONE OR MORE OF HIS FEDERAL CIVIL RIGHTS CLAIMS, PLEASE PLACE THE AMOUNT OF ONE (\$1) DOLLAR NEXT TO THE APPLICABLE FEDERAL CLAIM(S):

A) EXCESSIVE FORCE

0

B) FAILURE TO INTERVENE

0

C) SUBSTANTIVE DUE PROCESS

0

18. IF YOU HAVE GIVEN NOMINAL DAMAGES TO PLAINTIFF FOREMAN ON ONE OR MORE OF HER FEDERAL CIVIL RIGHTS CLAIMS, PLEASE PLACE THE AMOUNT OF ONE (\$1) DOLLAR NEXT TO THE APPLICABLE FEDERAL CLAIM(S):

A) EXCESSIVE FORCE

0

B) SUBSTANTIVE DUE PROCESS
AS TO HER GARAGE

N/A

C) SUBSTANTIVE DUE PROCESS
AS TO LAWN

N/A

PUNITIVE DAMAGES

19. PLEASE STATE THE TOTAL AMOUNT OF PUNITIVE DAMAGES, IF ANY, YOU ARE AWARDED PLAINTIFF GRIFFIN AGAINST EACH OF THE FOLLOWING DEFENDANTS:

(A) BERNAGOZZI

\$ 0

(B) KUEZ

\$ 0

20. PLEASE STATE THE TOTAL AMOUNT OF PUNITIVE DAMAGES, IF ANY, YOU ARE AWARDED PLAINTIFF FOREMAN AGAINST EACH OF THE FOLLOWING DEFENDANTS:

(A) BERNAGOZZI

\$ 0

(B) KUEZ

\$ 0

Christine Vega
FOREPERSON

DATED: SEPTEMBER 29, 2010
CENTRAL ISLIP, NEW YORK